

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DISCOUNT VIDEO CENTER, INC.,)
Plaintiff,)
v.) Civil Action No. 12-10805-NMG
DOES 1-29, et al.,)
Defendants.)

REPORT AND RECOMMENDATION ON
MOTION TO DISMISS OF JOHN DOE NO. 2

August 10, 2012

SOROKIN, C.M.J.

On June 6, 2012, Defendant John Doe No. 2 filed a Motion to Quash or Modify Subpoena and Motion to Dismiss. Docket # 8. That motion to quash (and other such pending motions) are the subject of a separate Order issued this date. Docket # 31. As described therein, the Plaintiff has stated unconditionally both in pleadings and at the hearing on the motions to quash that the Defendants in this case are not the subscribers to the IP addresses detailed in Exhibit A to the Complaint, but rather the alleged infringers of the Plaintiff's copyright who utilized those IP addresses (but who may or may not be the same individuals as the subscribers). See Order on Motions to Quash at 4-10. Given this position, which the Court accepts, John Doe No. 2 is not presently a Party, but rather a third party from whom the Plaintiff seeks discovery, and he or she does not have standing to seek dismissal.

For that reason, I RECOMMEND that the Court DENY the motion to dismiss as

*Report and Recommendation accepted and
adopted. SMMGoston, USDJ 10/16/12*